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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,057	09/30/2003	Jeyhan Karaoguz	14285US02	5837
23446 7590 09/10/2008 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER RYAN, PATRICK A				
ART UNIT		PAPER NUMBER		
2623				
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09/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/675,057

Applicant(s)

KARAOGUZ ET AL.

Examiner

PATRICK A. RYAN

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2623

/P. A. R./
Examiner, Art Unit 2623

MISCELLANEOUS NOTE: APPLICANT IS ADVISED THAT THE EXAMINER OF RECORD FOR THIS APPLICATION HAS CHANGED.

Continuation of 3. NOTE: Claims 34, 37, and 40 stand rejected under 35 USC 112 first paragraph for a lack of support in the Specification regarding the limitation "pushing at least a portion of said populated channel to said second location in exchange for at least a portion of a second populated channel guide..." (emphasis added to "in exchange for", with reference to Final Office Action Pages 2 and 3). Applicant has amended Claims 34, 37, and 40 to read: "populated channel" in replace of "populated channel guide" (with reference to Reply Pages 7-9). It is the Examiner's position that this amendment has not clarified the scope of the claims or provided evidence of support in the Specification regarding the limitation "in exchange for". Therefore, the Examiner upholds the rejection of Claims 34, 37, and 40.

Continuation of 11. Applicant's Reply to Final Office Action of June 11, 2008 ("Reply") does NOT place the application in condition for allowance because:

Applicant presents that the combination of Wood (US PGPUB 2002/0054752) in view of Novak (US PAT 7,103,905) regarding the Claim 1 limitation "populating, at a first location, said channel guide for said new media channel with information identifying mixed media content, wherein said populated channel may be pushed to a second location" because neither reference teaches "a single channel that includes both broadcast and personal media" (with particular reference to the "mixed media" limitation, as stated in Reply Pages 9-10). The Examiner respectfully disagrees.

The Wood reference is relied upon to teach a program guide containing broadcast media that is recorded into personal channels (Wood Paragraphs [0059,0064]; with further reference to Final Office Action Pages 4 and 5). The Novak reference is relied upon to teach a program guide containing personal media, which has been scheduled and uploaded by a user from the user's equipment, that is "pushed" to a second location and presented at the second location in a program guide containing both broadcast media and personal media (Novak Fig. 9, with further reference to Fig. 7, as described in Col. 12 Lines 10-26 and 39-58; additional reference is made to Final Office Action Pages 4 and 5). It is therefore the Examiner's position that in view of the teachings of Wood and Novak one of ordinary skill in the art at the time of the invention would be motivated to push both broadcast media and personal media to a second location "in order to provide a user a more complete and enjoyable television viewing experience" by permitting "the creation of a media channel containing not only regular broadcast media, but also personal media" (as stated in Final Office Action Page 5). The Examiner therefore upholds the rejection of Claims 1, 2, 11, 12, 21, and 22.

Applicant further presents that the combination of Wood and Novak in view of Ellis (US PAT 6,774,926 B1) regarding the Claim 34 limitation "pushing at least a portion of said populated channel to said second location in exchange for at least a portion of a second populated channel associated with a second media channel created at said second location". In view of Applicant's arguments (Reply Pages 10 and 11), the Examiner can not determine what aspects of the cited limitation the combination of Wood, Novak, and Ellis are deficient in teaching. For the purpose of this Office Action, the Examiner will assume that Applicant's position is that Ellis does not teach the act of "pushing" media because "Ellis discloses that the video may be 'distributed' as it is being created (i.e., in 'real time')" (as stated in Reply Page 11; with further reference to Ellis Col. 7 Lines 33-37). The Examiner respectfully disagrees.

The Ellis reference is relied upon to teach the "in exchange for" limitation of Claim 34 because Ellis teaches "the ability... to push/receive personal television channel programming to/from other locations" (Final Office Action Page 10; with further reference to Ellis Col. 5 Lines 15-22, 60-67, and Col. 6 Lines 23-30). The Examiner also notes the "pushed/pushing" limitation as been addressed with the combination of Wood and Novak (as discussed above). Therefore, the Examiner upholds the rejection of Claims 34, 37, and 40.

/PAI/